

REMARKS

Claims 33-44 were presented for consideration. Applicants appreciate the Examiner's indication that claims 34 and 35 recite allowable subject matter and claims 43 and 44 would be allowable over the prior art. In view of the claim amendments presented above and the following remarks, reconsideration and allowance of all pending claims are respectfully requested.

The Office action objects to the specification for failing to provide proper antecedent basis for the subject matter of claims 43 and 44. Specifically, the action states that the specification lacks basis for the terms "polyvinyl alcohol", "cellulose", "water sensitive gums", and "gum guar." In response, applicants amend the specification to provide specific support for each of these terms. Support for this amendment to the specification is found in claims 15 and 16 that were filed with the application but are now canceled. These claims form a part of the original disclosure provided in the application, and therefore the amendment to the specification is proper. Consequently, the objection to the specification must be withdrawn.

The Office action further rejects claims 43 and 44 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. More particularly, the Examiner alleges that these claims contain:

...subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not provide an adequate written description of the "liquid sensitive material" to warrant claiming "polyvinyl alcohol", "cellulose", "water sensitive gums" and "gum guar".

Applicants traverse this ground of rejection.

The application, as originally filed, provides sufficient description of the subject matter recited in claims 43 and 44. It is well accepted that the originally filed claims may provide a satisfactory description of the claimed invention. In this regard, applicants note that the present application, as originally filed, included claims 15 and 16, which are identical to claims 43 and 44 now pending. Specifically, claim 15 recites that the "liquid sensitive material" may be "polyvinyl alcohol, cellulose, and water sensitive gums," and claim 16 recites that "the water sensitive gum is guar gum." Accordingly, the application as originally filed provides word-for-word support for claims 43 and 44, and therefore provides sufficient detail that one skilled in the art would reasonably conclude that the inventors had possession of the claimed invention. The written description rejection of claims 43 and 44 must therefore be withdrawn.

Turning to the rejections on the art, claims 33 and 36-42 stand rejected under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 5,059,036 ("Richison") in view of U.S. Patent No. 4,134,535 ("Barthels"). Applicants traverse this ground of rejection.

Claim 33 as amended, as well as claims 34-44 dependent directly or indirectly thereon, specifies a reclosable bag having a secondary closure element. The secondary closure element includes a layer of liquid sensitive material sandwiched between first and second layers of liquid insensitive material, wherein the first and second layers of liquid insensitive material are porous. The layer of liquid sensitive material has a first state when not exposed to liquid which allows gas flow from the first layer of liquid insensitive material to the second layer of liquid sensitive material, and a second state when exposed to liquid that prevents liquid flow from the first layer of liquid insensitive material to the second layer of liquid insensitive material. It is not seen that the cited prior art discloses or suggests such a closure element.

More specifically, the cited prior art fails to disclose or suggest a layer of liquid sensitive material having the first and second states as recited in claim 33. With regard to the primary reference, the Examiner acknowledges that Richison fails to disclose or suggest a layer of liquid sensitive material. The secondary reference to Barthels, however, also fails to disclose or suggest a layer of liquid insensitive material that has a first state when not exposed to liquid that permits gas flow and a second state when exposed to liquid that prevents fluid flow, as now specified in the claims. Instead, Barthels teaches a valve element 3 that is continuously impregnated with liquid that relies on overpressure to overcome the cohesive force of the liquid to form capillaries that allow fluid flow. The function of the valve element 3 is described at column 4, lines 18-27, which states:

The function of the valve is explained by the capillary effect. Upon a certain overpressure being reached and by reason of the liquid having sufficiently high cohesivity or high surface tension and the porous element having sufficient pore size that the liquid layer is ruptured by the gas overpressure because the pressure forces are greater than the cohesive forces acting between the liquid particles. After pressure equalization, the capillaries formed in the liquid layer are closed again by the surface forces.

Barthels, therefore teaches the use of a porous layer that is continuously laden with liquid, wherein overpressure will rupture the liquid layer to form capillaries that permit gas to flow through the porous layer. The valve element 3 of Barthels is continuously exposed to liquid, and therefore it cannot be considered "liquid sensitive." Instead, actuation of the valve element 3 is dependent entirely on pressure. Consequently, Barthels fails to fairly teach or suggest a secondary closure element including a layer of liquid sensitive material having a first state when not exposed to liquid which allows gas flow from the first layer of liquid insensitive material to the second layer of liquid sensitive material, as specified in claim 33, and therefore this ground of rejection must be withdrawn.

The Office alternatively rejects claims 33 and 36-42 as obvious over Barthels in view of Richison. This rejection applies the same two references as the above prior art rejection, albeit in reverse order. Applicants also traverse this ground of rejection.

As noted above, Barthels fails to disclose or suggest a layer of liquid sensitive material having first and second states as particularly specified in claim 33. Instead, it teaches a valve element that is impregnated with liquid and that responds to pressure, rather than liquid, to change between closed and open conditions. As acknowledged earlier in the Office action, the secondary reference to Richison fails to disclose or suggest a layer of liquid sensitive material. Consequently, the combination of Barthels and Richison fails to disclose or suggest each element of claim 33, and the rejection thereof must be withdrawn. Claims 34-44, which depend directly or indirectly from claim 33, are similarly patentable over the prior art.

CONCLUSION

It is submitted that the present application is in good and proper form for allowance. A favorable action on the part of the Examiner is respectfully solicited.

If, in the opinion of the Examiner a telephone conference would expedite prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,
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